

REMARKS

Claims 1-4, 6, 7, 9-11, and 14-19 are pending in the application and are at issue.

This response is submitted in accordance with 37 C.F.R. §1.116(a) and §1.116(b) in order to present the rejected claims in a better form for allowance or appeal. The response is necessary to eliminate a rejection under 35 U.S.C. §103. This response was not presented earlier because the rejection under 35 U.S.C. §103 is a new ground of rejection. The response should be entered because it places the application in better form for allowance or appeal, and the response does not require further searching or present any new issues.

Claims 1-4, 6, 7, 9-11, and 14-19 stand rejected under 35 U.S.C. §103 as being obvious over WO 03/104301 (WO '301), having an English translation of U.S. Patent Publication No. 2005/0165208. This is the sole rejection of the claims. Applicants traverse this rejection because WO '301 is an improper reference to cite against the present claims.

The PCT application leading to WO '301 was filed on June 10, 2003. WO '301 published on December 18, 2003.

The present application is the U.S. national phase application of PCT/EP2004/007078, filed on June 30, 2004, which in turn claims the benefit of earlier filed German patent application No. 10 331 450.4, filed July 10, 2003.

Because WO '301 published (December 18, 2003) after the filing date of the Germany priority application (July 10, 2003) and less than one year before the filing date of PCT/EP2004/007078 (June 30, 2004), WO '301 can be removed as a reference by showing applicants' possession of the presently claimed invention prior to the December 18, 2003 publication date of WO '301.

Applicants therefore submit concurrently with this response a statement that the translation of PCT/EP2004/007078 from German to English is a true and complete translation. Further, PCT/EP2004/007078 discloses the same subject matter of German priority application No. 10 331 450.4, wherein only corrections to minor typographical errors

were made. Because priority application DE 10 331 450.4 fully supports the present claims, WO '301 is not available to cite as a reference against the present claims.

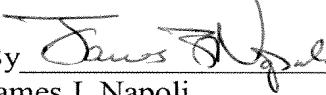
Accordingly, it is submitted that WO '301 is an improper reference and should be withdrawn, and that the rejection of claims 1-4, 6-7, 9-11, and 14-19 under 35 U.S.C. §103 as being obvious over WO '301 should be withdrawn.

Because all outstanding issues have been resolved, it is submitted that all pending claims are in a form and scope for allowance. An early and favorable action on the merits is respectfully requested.

Should the examiner wish to discuss the foregoing, or any matter of form in an effort to advance this application toward allowance, the examiner is urged to telephone the undersigned at the indicated number.

Dated: June 22, 2009

Respectfully submitted,

By 
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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VERIFICATION OF A TRANSLATION

I, Charles Edward SITCH BA,

Managing Director of RWS Group Ltd UK Translation Division, of Europa House, Marsham Way, Gerrards Cross, Buckinghamshire, England declare:

That the translator responsible for the attached translation is knowledgeable in the German language in which the below identified international application was filed, and that, to the best of RWS Group Ltd knowledge and belief, the English translation of the international application No. PCT/EP2004/007078 is a true and complete translation of the above identified international application as filed.

I hereby declare that all the statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent application issued thereon.

Date: June 9, 2009

Signature :



For and on behalf of RWS Group Ltd

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